

UNITED STATES DISTRICT COURT

for the
District of Arizona

DOA
7-12-19
United States of America
v.
Leobardo Aboite-Gutierrez
(A215 536 886)

Defendant

) Case No. 19-8321 MJ

)

)

)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of July 11, 2019, in the County of Maricopa, in the District of Arizona, the defendant violated Title 8, U.S.C. § 1326(a), a felony, and Title 8, U.S.C. § 1325(a)(2) a class B misdemeanor, an offense described as follows:

See Attachment A Incorporated By Reference Herein

I further state that I am a Deportation Officer.

This criminal complaint is based on these facts:

See Attached Statement of Probable Cause Incorporated By Reference Herein

CEB

REVIEWED BY: Charles E. Bailey Jr., P.S. for AUSA Stuart J. Zander

Continued on the attached sheet.



Complainant's signature

Regina Benvenue,
Deportation Officer

Printed name and title

Sworn to before me and signed in my presence.

Date: July 15, 2019



Judge's signature

City and state: Phoenix, Arizona

John Z. Boyle,
United States Magistrate Judge

Printed name and title

ATTACHMENT A

Count 1

On July 11, 2019, Leobardo Aboite-Gutierrez, an alien, was found in the United States of America at or near Phoenix, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at or near Brownsville, Texas, on or about July 5, 2018, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), a felony.

Count 2

On July 11, 2019, at or near Phoenix, in the District of Arizona, Leobardo Aboite-Gutierrez, an alien, did elude the examination or inspection by immigration officers in violation of Title 8, United States Code, Section 1325(a)(2), a class B misdemeanor.

STATEMENT OF PROBABLE CAUSE

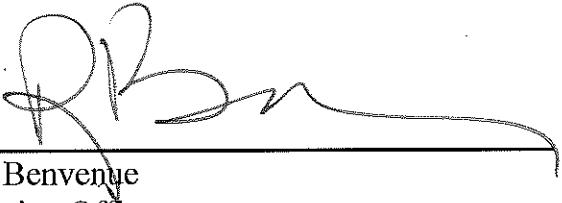
I, Regina Benvenue, being duly sworn, hereby depose and state as follows:

1. Your affiant is a Deportation Officer with United States Immigration and Customs Enforcement (ICE). I have learned from direct participation in the investigation and from the reports and communications of other agents and officers the facts recited herein.
2. On July 11, 2019, Leobardo Aboite-Gutierrez was booked into the Maricopa County Jail (MCJ) by the Mesa Police Department on local charges. While incarcerated at the MCJ, Aboite-Gutierrez was examined by ICE Officer Dion, who determined him to be a Mexican citizen, illegally present in the United States. On the same day, an immigration detainer was lodged with the MCJ. On July 12, 2019, Aboite-Gutierrez was transported to the Phoenix ICE office for further investigation and processing. Aboite-Gutierrez was held in administrative custody until his criminal and immigration records could be obtained and his identity confirmed.
3. Immigration history checks revealed Leobardo Aboite-Gutierrez be a citizen of Mexico and a previously deported alien. Aboite-Gutierrez was removed from the United States to Mexico through Brownsville, Texas, on or about July 5, 2018, pursuant to an order of removal issued by an immigration judge. There is no record of Aboite-Gutierrez in any Department of Homeland Security database to suggest that he

obtained permission from the Secretary of the Department of Homeland Security to return to the United States after his removal. Aboite-Gutierrez's immigration history was matched to his by electronic fingerprint comparison.

4. Furthermore, there is no record of Leobardo Aboite-Gutierrez in any Department of Homeland Security database to suggest that after his last removal from the United States he entered the United States at an official Port of Entry. Had Aboite-Gutierrez presented himself at a Port of Entry, Department of Homeland Security records likely would reveal that information. Accordingly, your affiant believes that Aboite-Gutierrez entered the United States at a location not designated as an official Port of Entry, and thereby eluded examination and inspection by Immigration Officers of the United States. Aboite-Gutierrez's immigration history was matched to him by electronic fingerprint comparison.
5. On July 12, 2019 Leobardo Aboite-Gutierrez was advised of his constitutional rights. Aboite-Gutierrez freely and willingly acknowledged his rights and declined to give a statement under oath.
6. For these reasons, this affiant submits that there is probable cause to believe that on or about July 11, 2019, Leobardo Aboite-Gutierrez, an alien, was found in the United States of America at or near Phoenix, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States

at or near Brownsville, Texas, on or about July 5, 2018, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a) and on July 11, 2019, at or near Phoenix, in the District of Arizona, Leobardo Aboite-Gutierrez, an alien, did elude the examination or inspection by immigration officers in violation of Title 8, United States Code, Section 1325(a)(2).



Regina Benvenue
Deportation Officer,
Immigration and Customs Enforcement

Sworn to and subscribed before me
this 15th day of July, 2019.



John Z. Boyle,
United States Magistrate Judge